

**APPENDIX B**  
**VACCINE RULES OF THE UNITED STATES COURT**  
**OF FEDERAL CLAIMS**

**I. SCOPE OF RULES;  
COMMENCEMENT OF  
PROCEEDINGS**

**Rule 1. Scope of Rules.**

These rules govern all proceedings before the United States Court of Federal Claims pursuant to the National Vaccine Injury Compensation Program established by 42 U.S.C. §§ 300aa-10 et seq. (1994) (Vaccine Act). These rules govern both proceedings before the Office of Special Masters, as well as any subsequent proceedings before a judge of the Court of Federal Claims. These rules are to be cited as the Vaccine Rules. In all matters not specifically provided for by the Vaccine Rules, the special master or the court may regulate the applicable practice, consistent with these rules and with the purpose of the Vaccine Act, to decide cases promptly and efficiently. In proceedings before the Office of Special Masters, the Rules of the United States Court of Federal Claims (RCFC) apply only to the extent referenced in the Vaccine Rules. In proceedings before a judge, the RCFC will apply except to the extent that such rules are inconsistent with the Vaccine Rules.

**Rule 2. Commencement of Proceedings.**

**(a) Petition.** A proceeding for compensation under the Vaccine Act shall be commenced by the filing of a petition, accompanied by the documents required under 42 U.S.C. § 300aa-11(c) and the Vaccine Rules, in the United States Court

of Federal Claims. Petitioner shall forward an original and two copies of the petition, by mail or other delivery, to

Clerk

United States Court of Federal  
Claims

717 Madison Place, N.W.

Washington, D.C. 20005

**(b) Fee.** The petition shall be accompanied by a \$ 150 filing fee.

**(c) Service upon Respondent.**

**(1)** Petitioner shall serve one copy of the petition and accompanying documents upon the Secretary of Health and Human Services, by first class or certified mail, c/o Director, Bureau of Health Professionals 5600 Fishers Lane Suite 8-05 Rockville, Maryland 20857. An executed certificate of such service shall accompany the petition filed with the clerk.

**(2)** The clerk shall serve one copy of the petition on the Attorney General.

**(d) Content of the Petition.**

**(1)** The petition shall set forth a short and plain statement of the grounds for an award of compensation. The petition shall set forth to whom, when, and where the vaccine in question was administered, and further shall describe specifically the alleged injury. If an injury within the Vaccine Act's Vaccine Injury Table, 42 U.S.C. § 300aa-14(a), is claimed, the particular injury shall be set forth. The

petition shall also contain a specific demand for relief to which petitioner asserts entitlement or a statement that such demand will be deferred pursuant to 42 U.S.C. § 300aa-11(e).

(2) Only one petition may be filed with respect to each administration of a vaccine.

**(e) Documents Required with the Petition.**

(1) As required by 42 U.S.C. § 300aa-11(c), every petition shall be accompanied by the following:

(A) Medical records and detailed affidavit(s) supporting all elements of the allegations made in the petition. If petitioner's claim does not rely on medical records alone, but is based in any part on the observations or testimony of any persons, the substance of each person's proposed testimony in the form of an affidavit executed by the affiant must accompany the petition.

(B) All available physician and hospital records relating to (A) the vaccination itself; (B) the injury or death, including, if applicable, any autopsy reports or death certificate; (C) any post-vaccination treatment of the injured person including all in-patient and out-patient records, provider notes, test results, and medication records; and, if the vaccinee was younger than five years old when vaccinated, (D) the mother's pregnancy and delivery and the infant's lifetime, including physicians' and nurses' notes and

test results and all well baby visit records, as well as growth charts, until the date of vaccination.

(C) If any records required by the rules are not submitted, an affidavit detailing the efforts made to obtain such records and the reasons for their unavailability.

(2) If filed on behalf of a deceased person, or if filed by someone other than the injured person or a parent of an injured minor, the petition shall also be accompanied by documents establishing the authority to file the petition in a representative capacity or a statement explaining when such documentation will be available.

(3) All documents accompanying the petition shall be assembled into one or more bound volumes or three-ring notebooks. Each bound volume or notebook must contain the caption of the case and a table of contents, and all pages of all documents shall be numbered consecutively.

## **II. PROCEEDINGS BEFORE THE SPECIAL MASTER**

### **Rule 3. Role of Special Master—Generally.**

(a) **Assignment.** Once a petition has been filed by the clerk, the case shall be assigned by the chief special master to a special master to conduct proceedings in accordance with the Vaccine Rules. All proceedings prior to the issuance of the special master's decision are to be conducted exclusively by the special master.

(b) **Duties.** The special master shall be responsible for conducting all proceedings,

including requiring such evidence as may be appropriate, in order to prepare a decision, including findings of fact and conclusions of law, determining whether an award of compensation should be made under the Vaccine Act and the amount of any such award. The special master shall determine the nature of the proceedings, with the goal of making the proceedings expeditious, flexible, and less adversarial, while at the same time affording each party a full and fair opportunity to present its case and creating a record sufficient to allow review of the special master's decision.

**(c) Absence; Reassignment.** In the absence of the special master to whom a case is assigned, the chief special master may act on behalf of the assigned special master, or designate another special master to act. When necessary for the efficient administration of justice, the chief special master may reassign a case to another special master.

#### **Rule 4. Respondent's Review and Report.**

**(a) Respondent's Review of Completeness of the Records.** Within 30 days of the filing of a petition, respondent shall review the medical and other records to determine whether, in respondent's view, all records necessary to enable respondent to evaluate the merits of the claim have been supplied with the petition. If respondent considers that relevant records are missing, respondent's counsel shall immediately notify petitioner's counsel regarding the perceived omissions. If the parties disagree about the completeness of the records filed or the relevance of

requested records, either party may request that the special master resolve the matter. If the special master concludes that records called for by Vaccine Rule 2(e) have not been submitted, the petition may be subject to dismissal, without prejudice, under Vaccine Rule 21(c).

**(b) Respondent's Report.** Within 90 days after the filing of the petition, respondent shall file a report that shall set forth a full and complete statement of respondent's position as to why an award should or should not be granted. The report shall contain respondent's medical analysis of petitioner's claims. It shall also present any legal arguments that respondent may have in opposition to the petition. General denials are not sufficient.

#### **Rule 5. Informal Review and Tentative Findings and Conclusions.**

The special master shall schedule an off-the-record conference to be held within 30 days of the filing of respondent's report pursuant to Vaccine Rule 4(b). At this conference, after affording the parties an opportunity to address each other's positions, the special master will review the materials submitted, evaluate the respective positions, and orally present tentative findings and conclusions. At the conclusion of this conference, the special master may issue a scheduling order outlining the necessary proceedings for resolving the issues presented in the case.

#### **Rule 6. Status Conferences.**

The special master shall conduct conferences from time to time in order to expedite the processing of the case. The conferences will be informal in nature and

ordinarily will be conducted by telephone conference call. Either party may request a status conference at any time. At such conferences, counsel for both parties will have the opportunity to propose procedures by which to process the case in the least adversarial, most efficient way possible.

#### **Rule 7. Discovery.**

There shall be no discovery as a matter of right.

**(a) Informal Discovery Preferred.** The informal and cooperative exchange of information is the ordinary and preferred practice.

**(b) Formal Discovery.** If a party considers that informal discovery is not sufficient, that party may seek to utilize the discovery procedures provided by RCFC 26-37 by filing a motion indicating the discovery sought and stating with particularity the reasons therefor, including an explanation why informal techniques have not been sufficient. Such a motion may also be made orally at a status conference.

**(c) Subpoena.** When necessary, the special master upon request by a party may approve the issuance of a subpoena. In so doing, the procedures of RCFC 45 shall apply. See RCFC Appendix of Forms (Form 7A).

#### **Rule 8. Taking of Evidence and Argument; Decision.**

**(a) General.** The special master in each case, based on the specific circumstances thereof, shall determine the format for taking evidence and hearing argument. The particular format for each case will be ordered after consultation with

the parties.

**(b) Hearing.** When necessary, the special master may conduct an evidentiary hearing. The special master will determine the format for such a hearing. The special master may permit direct examination of a witness or may permit or require that the direct testimony be submitted in written form. The special master may question a witness and may, on request, permit questioning by opposing counsel. Upon order by the special master, the clerk or counsel may issue a subpoena requiring the attendance of a witness at such hearing. A transcript of the hearing shall be prepared in conformity with RCFC 80.1 and RCFC Appendix of Forms (Forms 3A and 3B).

**(c) Evidence.** In receiving evidence, the special master will not be bound by common law or statutory rules of evidence. The special master will consider all relevant, reliable evidence, governed by principles of fundamental fairness to both parties. Evidence may be taken in the form of documents, affidavits, or oral testimony, which may be given in person or via telephone, videoconference, or videotape. Sworn written testimony may be submitted in lieu of oral testimony.

**(d) Decision Without Evidentiary Hearing.** The special master may decide a case on the basis of written filings without an evidentiary hearing. In addition, the special master may decide a case on summary judgment, adopting procedures set forth in RCFC 56 modified to the needs of the case.

**(e) Argument.** Argument may be received by telephone conference call or at a hearing or in written submissions. The special master may establish requirements

for such filings, *e.g.*, contents or page limitations, as appropriate.

**(f) Waiver of Argument.** Any fact or argument not raised specifically in the record before the special master shall be considered waived and cannot be raised by either party in proceedings on review of a special master's decision. This rule shall not apply to legal arguments raised by the party that stands in the role of the appellee on review.

### **Rule 9. Suspension of Proceedings.**

**(a) General.** On the motion of a party, for good cause shown, the special master may suspend proceedings on the petition. The special master shall grant one such suspension for 30 days on the motion of either party. Further motions by either party for suspension may be granted, totaling not more than 150 additional days, in the special master's discretion.

**(b) Effect.** Such periods of suspension shall be excluded for purposes of the time limitations of 42 U.S.C. § 300aa-12(d)(3) and Vaccine Rules 4(b) and 10.

### **Rule 10. Special Master's Decision.**

**(a) General.** The special master shall issue a final decision determining whether or not an award of compensation shall be made and, if so, the amount thereof. This decision shall be filed within 240 days of the date on which the petition was filed, exclusive of periods of suspension pursuant to Vaccine Rule 9.

**(b) Certain Retrospective Cases.** In cases in which the vaccination in question occurred prior to October 1, 1988, and in which the vaccine recipient is not deceased, the special master shall defer ruling on the

limited issue of the amount of any compensation for lost earnings and pain and suffering, 42 U.S.C. § 300aa-15(a)(3) and (4), and combine that ruling with the decision under Vaccine Rule 13.

**(c) Reconsideration.** Within 21 days of the issuance of the special master's decision, if neither a judgment nor a motion for review of the special master's decision has yet been filed, either party may file a motion for reconsideration of the special master's decision. The special master may seek the non-moving party's response to such a motion, determining the method of and time schedule for any such response. The special master will not rule in favor of such a motion without first requesting a response to it. The special master shall have discretion to grant or deny such motion, in the interest of justice.

**(1) If granted.** If the special master elects to grant the motion for reconsideration, the special master shall do so by filing an order withdrawing the decision in question. The withdrawn decision then becomes void for all purposes, and the special master must subsequently enter a superseding decision. An order withdrawing the decision may be filed only if neither a judgment nor a motion for review has yet been filed.

**(2) If not granted.** The filing of a motion for reconsideration will not negate the running of the 30-day period for filing a motion for review of the special master's decision. If the special master denies such a motion, or during any period in which the special master has not yet acted upon such a motion, the 30-day period for the filing

of a motion for review of the special master's decision shall continue to run and either side may file a motion for review.

### **III. JUDGMENT AND FURTHER PROCEEDINGS**

#### **Rule 11. Judgment**

**(a) In the Absence of Motion for Review.** In the absence of the filing of a motion for review pursuant to Vaccine Rule 23 within 30 days of the filing of the special master's decision, or if prior to the expiration of such period each party files a notice stating that it will not seek such review, the clerk shall forthwith enter judgment in accordance with the special master's decision.

**(b) Stipulation for Judgment.** Any stipulation for a money judgment shall be signed by authorized representatives of the Secretary of Health and Human Services and the Attorney General.

#### **Rule 12. Election.**

**(a) General.** When no motion for review of a decision pursuant to Vaccine Rule 10 is filed by either party pursuant to Vaccine Rule 23, petitioner shall, within 90 days after the entry of judgment, file with the clerk an election in writing either (1) to accept the judgment or (2) to file a civil action for damages for the alleged injury or death. Upon failure to file an election within the time prescribed, petitioner shall be deemed to have filed an election to accept the judgment.

**(b) Declining Award.** An election to decline an award of compensation may be accompanied by a motion for the limited compensation provided by 42 U.S.C.

§ 300aa-15(f)(2). If such a motion has not been filed by time the election is filed, petitioner will be deemed to have waived that limited compensation. Such motion shall be forwarded to the special master for a decision thereon. The decision of the special master on the motion shall be considered a separate "decision" for purposes of Vaccine Rules 11, 18, and 23.

#### **Rule 13. Attorneys' Fees and Costs.**

Any request for attorneys' fees and costs pursuant to 42 U.S.C. § 300aa-15(e) shall be filed no later than six months following the filing of an election pursuant to Vaccine Rule 12. The clerk shall forward the fee request to the special master to whom the case was assigned for consideration and decision. The decision of the special master on the fee request shall be considered a separate decision for purposes of Vaccine Rules 11, 18, and 23.

### **IV. GENERAL PROVISIONS**

#### **Rule 14. Attorneys.**

**(a) Attorneys Eligible to Practice.** Only attorneys who are members of the bar of the United States Court of Federal Claims and who comply with the Vaccine Rules may enter an appearance, file pleadings, and practice before the Office of Special Masters and the court. The clerk's office will not accept for filing any pleading, motion, or other paper that is not signed by the attorney of record in the case or by member of this bar authorized to sign the attorney of record's name on the attorney of record's behalf. For admission to the bar of the court, RCFC 83.1(b) shall apply.

**(b) Attorneys of Record.** There shall

be but one attorney of record for a party in any case at any one time, and such attorney of record shall be an individual, and not a firm, who has been admitted to practice before the Court of Federal Claims. Any other attorneys assisting the attorney of record shall be designated as of counsel. The attorney of record shall include on all filings the attorney's name, address, and telephone number. The attorney of record for each party shall promptly file with the clerk a notice of any change in address.

**(c) Change of Attorneys.** RCFC 83.1(c) shall apply.

**(d) Unrepresented Party.** An individual may represent himself or herself or a member of the individual's immediate family as a party. Any other party, however, must be represented by an attorney who is admitted to practice before the Court of Federal Claims. The term "counsel" or "attorney" in the Vaccine Rules shall include unrepresented parties.

#### **Rule 15. Third Parties.**

No person may intervene in a vaccine injury compensation proceeding. However, the special master shall afford all interested persons an opportunity to submit relevant written information. Such information may be submitted within 60 days of publication of notice of the petition in the Federal Register, or later with leave of the special master.

#### **Rule 16. Caption of All Filings.**

The petition and other filings shall be captioned with the appropriate title (the petition should leave blank the spaces for the special master's name and the case number; all filings thereafter must include

the case number and the name of the assigned special master). See Appendix of Forms, Form 7.

#### **Rule 17. Filing and Service of Papers After the Petition.**

##### **(a) Filing with the Clerk Defined.**

All pleadings and other papers required to be filed with the clerk by the Vaccine Rules or by order of the special master or the court shall be forwarded to the clerk of the court at the address noted in Vaccine Rule 2. A document is filed when actually received and marked filed by the clerk, not when mailed. All matters shall be brought to the attention of the special master or the court through formal filings with the clerk rather than by correspondence.

**(b) Service.** A copy of every document filed by any party with the clerk shall be served on the opposing party's attorney, or the opposing unrepresented party if no appearance of attorney has been entered. A certificate of service showing date of service shall be appended to the original and copies thereof. See RCFC 5.

**(c) Date.** Each filing shall bear on the signature page the date on which it is signed.

**(d) Number of Copies.** The parties shall file an original and two copies of each paper to be filed with the clerk, except that for filings of 50 pages or more, an original and one copy will suffice.

#### **Rule 18. Availability of Filings.**

**(a) General.** All filings with the clerk pursuant to the Vaccine Rules are to be made available only to the special master, judge, and parties, with the exception of certain court-produced documents as set

forth in subdivision (b) of this rule. A transcript prepared pursuant to Vaccine Rule 8(b) shall be considered a filing for purposes of this rule.

**(b) Decisions of special masters and judges.** When a decision of a special master or of the court is filed with the clerk, each party will be afforded 14 days in which to object to the public disclosure of any information furnished by that party—

(1) that is trade secret or commercial or financial information and is privileged or confidential, or

(2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.

If the party furnishing information objects to disclosure, that information shall be redacted prior to public disclosure of the decision. In the absence of objection, the entire decision will be made public.

#### **Rule 19. Time.**

**(a) Computation.** In computing any period of time, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the clerk's office inaccessible, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a holiday. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Service by mail is complete

upon mailing, but filing is not. For legal holidays, see RCFC 6(a).

**(b) Enlargement.** Motions for enlargement of time may be granted for good cause shown. A motion shall set forth the reason or reasons upon which the motion is based. Such motion must contain a representation that the moving party has discussed the motion with opposing counsel and a statement whether an opposition will be filed or, if opposing counsel cannot be consulted, an explanation of the efforts made to do so.

**(c) Additional Time After Service By Mail.** Whenever a party has the right or is required to do some act within a prescribed period after the service of a paper, and the service is made by mail, 3 calendar days shall be added to the prescribed period, unless the special master or the court orders otherwise.

#### **Rule 20. Motions.**

**(a) Motions.** A motion, unless made orally, shall be made in writing, shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the clerk. Any motion, objection, or response may be accompanied by a memorandum, and, if necessary, by supporting affidavits. Any motion may be accompanied by a proposed order.

**(b) Responses and Replies.** Unless otherwise provided by the special master or the court, any response or objection to a written motion shall be filed within 14 days after service of the motion, and any reply shall be filed within 7 days after service of the response or objection.

**(c) Oral Argument.** Oral argument on a motion may be scheduled. A party

desiring oral argument on a motion shall so request in the motion or response.

#### **Rule 21. Dismissal of Petitions.**

**(a) Voluntary Dismissal; Effect Thereof.** A petition may be dismissed by the petitioner without order of the special master or the court (1) by filing a notice of dismissal at any time before service of respondent's report, or (2) by filing a stipulation of dismissal signed by all parties who have appeared in the proceeding. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal may, in the discretion of the special master or the court, be deemed to operate as an adjudication upon the merits when filed by a petitioner who has previously dismissed the same claim.

**(b) Failure to Prosecute or Participate.** If petitioner fails to prosecute, the petition may be dismissed pursuant to Vaccine Rule 21(c). No judgment shall be entered against respondent despite any failure of participation unless petitioner introduces evidence establishing a right to compensation.

**(c) Involuntary Dismissal.** For failure of petitioner to prosecute or comply with the Vaccine Rules or any order, the special master or the court may dismiss a petition or any claim therein.

### **V. REVIEW OF DECISIONS OF SPECIAL MASTERS**

**Rule 22.** [Abrogated.]

#### **Rule 23. Motion for Review and Objections.**

To obtain review of a special master's

decision, within 30 days after the date on which the decision is filed, a party must file with the clerk a motion for review of the decision. No extensions of time under this rule will be permitted, and the failure of a party to timely file such a motion shall constitute a waiver of the right to obtain review.

#### **Rule 24. Memorandum of Objections.**

The motion for review must be accompanied by a memorandum of numbered objections to the decision. This memorandum must fully and specifically state and support each objection to the decision. The memorandum shall cite specifically to the record created by the special master, *e.g.*, to specific page numbers of the transcript, exhibits, etc., and should also fully set forth any legal argument the party desires to present to the reviewing judge. The memorandum shall be limited to 20 pages and must conform to the provisions of RCFC 5.2.

#### **Rule 25. Response.**

**(a)** If a motion for review is filed, the other party may file a response thereto within 30 days of the filing of the motion. No extensions of time under this rule will be permitted, and the failure of a party timely to file such a response shall constitute a waiver of the right to respond. The response shall be in memorandum form and shall fully respond to each numbered objection. The memorandum shall cite specifically to the record created by the special master, *e.g.*, to specific page numbers of the transcript, exhibits, etc., and should also fully set forth any legal argument the party desires to present to the

reviewing judge. The memorandum shall be limited to 20 pages and must conform to the provisions of RCFC 5.2.

(b) If both parties file motions for review, each party may file a response to the other party's motion.

#### **Rule 26. Assignment.**

When a motion for review is filed with the Clerk, the case will be assigned to a Court of Federal Claims judge to conduct the review. The assignment shall be made pursuant to RCFC 40.1.

#### **Rule 27. Review.**

The assigned judge shall undertake a review of the objections raised and may thereafter:

(a) Uphold the findings of fact and conclusions of law and sustain the special master's decision;

(b) Set aside any finding of fact or conclusion of law found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and issue the judge's own decision; or

(c) Remand the case to the special master for further action in accordance with the judge's direction.

#### **Rule 28. Time for Review.**

The judge shall complete the review within 120 days of the last date for the filing of a response under Vaccine Rule 25, excluding any days the case is before a special master on remand. If the judge remands the case to a special master, the total period for any remands shall not exceed 90 days.

#### **Rule 28A. Remand Procedure.**

If the judge remands a case to a special master, the master, after completing the remand assignment, shall file a "decision on remand" resolving the case, unless the order of remand directs otherwise. The clerk shall promptly notify the judge who remanded the case of the filing of this decision on remand. Unless specified otherwise in the judge's order remanding the case, this decision shall be considered a separate decision for purposes of Vaccine Rules 11, 18, and 23, *i.e.*, judgment automatically will be entered in conformance with the master's decision unless a new motion for review is filed pursuant to Vaccine Rule 23. If a party seeks review of such decision, the clerk shall assign the case to the judge who remanded the case.

#### **Rule 29. Withdrawal of Petition.**

If the judge fails to direct entry of judgment within 420 days after the date on which a petition was filed, excluding any periods of suspension pursuant to Vaccine Rule 9 or remands, the petitioner may file a notice to continue or withdraw the petition. Such a notice shall be filed within 30 days after the expiration of the 420-day period.

#### **Rule 30. Judgment.**

(a) **After Review.** After review and decision by a judge, the clerk shall forthwith enter judgment in accordance with the judge's decision.

(b) **Stipulation for Judgment.** Any stipulation for a money judgment shall be signed by authorized representatives of the Secretary of Health and Human Services and the Attorney General.

**Rule 31. Reconsideration.**

If a party files a motion for reconsideration of a judge's decision within 10 days of entry of the judgment, RCFC 59 shall apply.

**Rule 32. Notice of Appeal.**

Review of a Court of Federal Claims judgment by the United States Court of Appeals for the Federal Circuit may be obtained by filing with the clerk of the Federal Circuit a notice of appeal (petition for review) within 60 days of the date of the entry of judgment.

**Rule 33. Election.**

After review by the Court of Federal Claims and entry of judgment, an election as described in Vaccine Rule 12 shall be made within 90 days following the entry of judgment. However, if an appeal is taken to the United States Court of Appeals for the Federal Circuit pursuant to Vaccine Rule 32, the 90-day period for the election shall not run from the original date of judgment, but rather from the date of the appellate court's mandate or any subsequent judgment of the Court of Federal Claims on remand, whichever occurs later.

**Rule 34. Attorneys' Fee and Costs.**

Any request for attorneys' fees and costs, in a case where judgment followed a review by a judge, will be processed pursuant to Vaccine Rule 13.

**Rule 35. [Abrogated.]****VI. RELIEF FROM JUDGMENT****Rule 36. Relief from Judgment.**

**(a) General.** Following the entry of judgment by the Court of Federal Claims, if a party files a motion pursuant to RCFC 59 or 60, the clerk of the court shall refer such motion as follows. If the petition has previously been before a judge of the court upon review pursuant to Vaccine Rule 23, then the motion shall be referred to that judge. If the petition has not previously been before a judge of the court upon review pursuant to Vaccine Rule 23, then the motion shall be referred to the Office of Special Masters.

**(b) Review of a Special Master's Ruling.** When a motion pursuant to RCFC 59 or 60 is referred to a special master pursuant to subdivision (a) of this rule, that master shall file a written ruling upon such motion. That ruling shall become the final ruling of the court on the motion, unless a party files a motion for review of that ruling, accompanied by a memorandum of objections to the ruling, within 30 days of the date of the ruling. If such a review motion is filed, the case will be submitted to a judge of the court, who will review the special master's ruling, setting such ruling aside only if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The non-moving party may file a memorandum response within 30 days of the filing of the review motion. Memorandums for each party shall be limited to 20 pages and must conform to the provisions of RCFC 5.2.

**(c) If Judgment is Altered.** If the original judgment is modified pursuant to RCFC 59 or 60 or otherwise, and the petitioner is to receive any award for

damages calculated with respect to the “date of judgment,” such damages shall be calculated based upon the date of the original judgment, unless the ruling of the special master or court directs otherwise.

**Rules Committee Note**

Appendix B sets forth rules applicable to proceedings involving claims for the compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 - 300aa-34 (1994).